

WASHINGTON, DC – The House Judiciary Committee today passed the Business Activity Tax Simplification Act, H.R. 1439, which was introduced by Congressmen Bob Goodlatte (R-VA) and Bobby Scott (D-VA). This legislation clarifies the confusion surrounding when a state can levy business activity taxes on out-of-state businesses.

Over the past several years, a growing number of states have sought to collect business activity taxes from businesses in other states. The problem is that different states use different standards for determining what constitutes sufficient contacts with a state to justify taxation. As a result, businesses have shied away from expanding their presence in other states for fear of exposure to further taxation.

"This legislation sets specific guidelines for when an out-of-state business may be charged a tax for doing business in a state," Goodlatte said. "Just because a website can be accessed by consumers in a certain state, doesn't mean that state should be able to collect taxes from the website owner. This legislation focuses on allowing the Internet and the commerce that it facilitates to expand, by eliminating excessive taxes that harm on-line growth.

"The nexus provisions are necessary, common-sense clarifications that will benefit states and businesses by eliminating gray areas and establishing 'bright lines' regarding what constitutes a physical presence," Goodlatte said. "This legislation is a priority for businesses of all sizes because it will ensure that businesses are not subject to double taxation at the state level, which will ultimately facilitate the continued growth of e-commerce, job creation and the overall strength of the American economy. Small businesses will be particularly helped with this bill because they do not have the resources to hire teams of lawyers to fight aggressive state taxation."

There are countless examples of aggressive state actions and positions against out-of-state companies. For example, some states take the position that a business whose trucks pass through the state six or fewer times in a year – without picking up or delivering goods – has sufficient connections with the state to justify imposing business activity taxes on that company. Other states assert that having a website on a server in the state creates a sufficient connection to justify imposing these taxes. Additionally, some states believe that registering to do business in a state, or listing a phone number in a local phone book in that state is a sufficient connection to justify taxation.

"I commend my colleagues on the Judiciary Committee for favorably reporting the Business Activity Tax Simplification Act," said Scott. "Businesses should be responsible for paying taxes to states where they do business; however, BATSA would ensure fairness, minimize costly litigation for both state governments and taxpayers, reduce the likelihood of a business being 'double-taxed' on the same income, and create a legally certain and stable business environment. Most importantly, the bill would ensure that businesses continue to pay business activity taxes to states that provide them with direct benefits and protections."

"The Business Activity Tax Simplification Act" will be referred to the full House for further consideration.

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